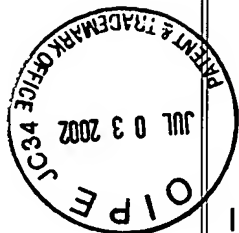


PATENT
Customer No. 22,852
Attorney Docket No. 06530.0290



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:

Thomas O. BALES et al.

Serial No.: 10/074,012

Filed: February 14, 2002

For: RADIAL JAW BIOPSY FORCEPS

Group Art Unit: 37.36

Examiner: Not assigned

RECEIVED

MAY 06 2003

OFFICE OF PETITIONS

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

PETITION UNDER 37 C.F.R. §1.47(a)

Pursuant to 37 C.F.R. §1.47(a), Applicants hereby petition for acceptance of the above-identified reissue application on behalf of himself and non-signing inventors.

In the Reissue Declaration filed on February 14, 2002, the signatures of two joint inventors, Messrs. Charles R. Slater and Kevin W. Smith, are missing because those inventors cannot be reached after diligent effort. In support of this Petition, Applicants submit the Declaration in Support of Petition that fully describes the facts which are relied on to establish that a diligent effort to locate the inventors was made. That Declaration also states the last known addresses of the non-signing inventors in accordance with 37 C.F.R. §1.47(a).

A fee of \$130.00 for the petition under 37 C.F.R. §1.47(a) is enclosed.

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

07/09/2002 MBERHE
02 FC:122

00000048 10074012

130.00 GP

If there are any other fees due in connection with the filing of the Petition, please
charge the fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 3, 2002

By: 

Leslie I. Bookoff
Reg. No. 38,084

FINNEGAN
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PATENT
Customer No. 22,852
Attorney Docket No.: 6530.0290

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:)

Thomas O. BALES et al.)

Serial No.: 10/074,012)

Filed: February 14, 2002)

For: RADIAL JAW BIOPSY)
FORCEPS)

Group Art Unit: 3736

Examiner: Unassigned

RECEIVED

MAY 06 2003

OFFICE OF PETITIONS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

DECLARATION IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.47(a)

I, Kathleen Cronin, hereby declare as follows:

1. I am employed by Boston Scientific Corporation as a Patent Secretary. Boston Scientific Corporation is the controlling corporation of Symbiosis Corporation, the assignee of this application.

2. I understand that Messrs. Charles R. Slater and Kevin W. Smith are joint inventors along with Mr. Thomas O. Bales in the above-captioned reissue patent application.

3. Mr. Slater's last known residence address is 1705 S.W. 4th Street, Fort Lauderdale, Florida 33312. Mr. Smith's last known residence address is 8940 S.W. 112th Street, Miami, Florida 33176. The last known work address for both Messrs. Slater and Smith is Syntheon, Inc., 8210 N.W. 27th Street, Miami, Florida 33122,

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and their work telephone number is 305-716-7000. Each of my telephone calls detailed in paragraph 7 below has indicated that Messrs. Slater and Smith have worked at the address and telephone number throughout the entire time period relevant to this Declaration.

4. I sent a package with a copy of the above-identified application and a Reissue Declaration to Mr. Slater's last known work address via Federal Express on February 7, 2002. A copy of the cover letter for this package is attached as Exhibit A. A Federal Express tracking report for this package indicates that the package was delivered at 10:27 a.m. on February 8, 2002; however, I have not received the executed Reissue Declaration back from Mr. Slater. I attach as Exhibit B a copy of the Federal Express tracking report for this package.

5. I also sent a package with a copy of the same materials to Mr. Smith's last known work address via Federal Express on February 7, 2002. A copy of the cover letter for this package is attached as Exhibit C. A Federal Express tracking report for this package indicates that the package was delivered at 10:27 a.m. on February 8, 2002; however, I have not received the executed Reissue Declaration back from Mr. Smith. I attach as Exhibit D a copy of the Federal Express tracking report for this package.

6. Mr. Slater's last known email address is crslater@syntheon.com, and Mr. Smith's last known email address is kevin@syntheon.com. On the day that I sent the packages discussed in paragraphs 4 and 5, I also sent emails to Messrs. Slater and Smith at these email addresses to inform them of the sent packages. A copy of these emails is attached as Exhibit E. My email system did not return a

message that the sent emails were undelivered, indicating that the emails were received at the intended addresses. However, I have not received any reply to my emails.

7. I also have attempted to reach Messrs. Slater and Smith by telephone on several occasions. I first attempted to call them at 305-716-7000 on March 13, 2002 and left a message with a receptionist for each of them. The call was not returned. On May 16, 2002, I attempted to call them again at the same number, and left a message at each of Mr. Slater's and Mr. Smith's personal voicemails. The calls were again never returned. Finally, I attempted to call them again on June 19, 2002, and left a message with a receptionist for each of them. However, no call has been returned to this date. When leaving a message at each phone call, the receptionist at no time indicated that Messrs. Slater and Smith do not work at that number.

8. I also tried to contact Messrs. Slater and Smith on May 1, 2002 via emails, following up on the status of the packages and Reissue Declarations. My email system did not return any message that the emails were undelivered, indicating that the emails were received at the intended addresses. No reply has been made to my emails. I attach a copy of the May 1, 2002 email as Exhibit F.

9. Despite my repeated attempts to reach Messrs. Slater and Smith, I have not been able to contact them to this date.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the

knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Kathleen Cronin

Kathleen Cronin

July 1, 2002

Date

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Fax 202.408.4400
www.finnegan.com

Boston Scientific

Boston Scientific Corporation
One Boston Scientific Place
Natick, MA 01760-1537
508.650.8000
www.bsci.com

February 7, 2002

Via: Federal Express
7917 7262 5870

Thomas O. Bales
Charles R. Slater
Kevin W. Smith
Syntheon, Inc.
8210 N.W. 27th Street
Miami, FL 33122

RE: Reissue Application of U.S. Patent 6,024,708
Title: "*Radial Jaw Biopsy Forceps*"
Our Reference Number 92-P0003US4

Dear Charles:

Per my email of earlier today, please find enclosed a draft Preliminary Amendment for the above-referenced Reissue Application as well as a Declaration for your signature.

Please review, sign and date the Declaration where indicated and return to me in the enclosed self-addressed return Fedex envelope as soon as possible.

Please feel free to call if you have any questions or concerns. Thank you in advance for your cooperation.

Sincerely,



Kathleen Cronin
Patent Secretary

/kcc
enclosure

del 2/8 10.29
L. Vielma

FedEx Express
Customer Support
Domestic Trade
3876 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38118

U.S. Mail: PO Box 727
Memphis, TN 38194-4643

Telephone 901-369-3800



June 21, 2002

IVRTRACK
(508) 647-2730

Dear IVRTRACK:

Our records reflect the following delivery information for the shipment with the tracking number 791772625870.

Delivery Information:

Signed For By: L.VIELMA

Louise Vielma

Delivered to: 8210 NW 27 ST

Delivery Date: February 08, 2002

Delivery Time: 10:27 AM

Shipping Information:

Shipment Reference Information: 10032

Tracking No: 791772625870

Ship Date: February 07, 2002

Shipper: KATHLEEN CRONIN
BOSTON
SCIENTIFIC/CORPORATE
1 BOSTON SCIENTIFIC PL
NATICK, MA 017601537

Recipient: CHARLES R. SLATER
SYNTHEON, INC
8210 N. W. 27TH STREET
MIAMI, FL 33122
US

Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service
1-800-Go-FedEx (1-800-463-3339)
Reference No: R2002062100052529261

This Information is provided subject to the FedEx Service Guide.

Boston Scientific

Boston Scientific Corporation
One Boston Scientific Place
Natick, MA 01760-1537
508.650.8000
www.bsci.com

February 7, 2002

Via: Federal Express
7917 7262 0114

Thomas O. Bales
Charles R. Slater
Kevin W. Smith
Syntheon, Inc.
8210 N.W. 27th Street
Miami, FL 33122

RE: Reissue Application of U.S. Patent 6,024,708
Title: "***Radial Jaw Biopsy Forceps***"
Our Reference Number 92-P0003US4


Dear Kevin:

Per my email of earlier today, please find enclosed a draft Preliminary Amendment for the above-referenced Reissue Application as well as a Declaration for your signature.

Please review, sign and date the Declaration where indicated and return to me in the enclosed self-addressed return Fedex envelope as soon as possible.

Please feel free to call if you have any questions or concerns. Thank you in advance for your cooperation.

Sincerely,



Kathleen Cronin
Patent Secretary

/kcc
enclosure

2/5 10:21
L. V. Vieira

FedEx Express
Customer Support
Domestic Trade
3876 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38118

U.S. Mail: PO Box 727
Memphis, TN 38194-4843

Telephone 901-369-3800



June 21, 2002

IVRTRACK
(508) 647-2730

Dear IVRTRACK:

Our records reflect the following delivery information for the shipment with the tracking number 791772620114.

Delivery Information:

Signed For By: L. VIELMA

Louise Vielma

Delivered to: 8210 NW 27 ST

Delivery Date: February 08, 2002

Delivery Time: 10:27 AM

Shipping Information:

Shipment Reference Information: 10032

Tracking No: 791772620114

Ship Date: February 07, 2002

Shipper: KATHLEEN CRONIN
BOSTON
SCIENTIFIC/CORPORATE
1 BOSTON SCIENTIFIC PL
NATICK, MA 017601537

Recipient: KEVIN W. SMITH
SYNTHEON, INC
8210 N.W. 27TH STREET
MIAMI, FL 33122
US

Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service
1-800-Go-FedEx (1-800-463-3339)
Reference No: R2002062100052589733

This Information is provided subject to the FedEx Service Guide.

Cronin, Kathy

From: Cronin, Kathy
Sent: Thursday, February 07, 2002 2:51 PM
To: 'Bales, Thomas O.'; 'Smith, Kevin'; 'Slater, Charles R.'
Subject: Signatures Needed
Importance: High

Gentlemen:

Today I will be sending each of you a draft Preliminary Amendment as well as a Reissue Declaration for your signature. This is a Reissue Application for U.S. Patent 6,024,708 entitled "Radial Jaw Biopsy Forceps". I will also enclose a return Fedex envelope for your convenience.

This application must be filed by February 15th so I am asking for your help in expediting this paperwork. I apologize for the short time frame and am hopeful that you can help me. Please do not hesitate to contact me if you have any questions. Thank you, Kathy

Kathy Cronin
Patent Department
(508) 650-8768

Cronin, Kathy

From: Cronin, Kathy
Sent: Wednesday, May 01, 2002 5:23 PM
To: 'Smith, Kevin'; 'Slater, Charles R.'
Subject: Signatures needed
Importance: High

Gentlemen:

Some time ago I sent each of you a draft Preliminary Amendment as well as a Reissue Declaration for your signature. This is a Reissue Application for U.S. Patent 6,024,708 entitled "Radial Jaw Biopsy Forceps". I also enclosed a return Fedex envelope for your convenience.

Since I have not heard back from you I am wondering if there's a problem. Please let me know when I can expect to receive this paperwork from you. If you have misplaced it, also please let me know and I will re-send it to you.

I would appreciate hearing back from you either way. Thank you, Kathy

Kathy Cronin
Patent Department
(508) 650-8768